

IN RE: PETITION FOR SPECIAL HEARING
SW/S Yorkway, 221.42' SE of
Leeway (2526 Yorkway)
12th Election District
7th Election District
Roger S. Burnett, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 88-530-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a five (5) unit apartment building, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Mr. Burnett, appeared, testified and were represented by John O. Hennegan, Esquire. Also appearing on behalf of the Petition were: John O'Bara, Evelyn Comer, and J. Richard O'Donnell. There were no Protestants.

Testimony indicated that the subject property, known as 2526 Yorkway, is zoned D.R. 10.5, and is improved with an apartment building, which, at the present time, contains six apartments. Mr. O'Bara testified that he purchased the subject property from a Mr. Huskey in 1949. He further testified that from the information he learned at that time, which is supported by Petitioner's Exhibit 2, it is his understanding that the apartment building was built in approximately 1943. At the time of Mr. O'Bara's purchase, four apartments existed; two on the first floor, known as A and B, and two on the second floor, known as C and D. Mr. O'Bara testified that in 1953 he completed a fifth apartment in half of the basement area. Mr. O'Bara described each apartment as containing its own kitchen, living room, bedroom and bathroom. He further testified that from the time he owned the building until 1972, when he sold the property

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 12th Date of Posting: 6/15/88
Posted for: Special Hearing
Petitioner: Roger S. Burnett, et ux
Location of property: SW/S Yorkway, 221.42' SE of Leeway, 2526 Yorkway
Location of Signs: 2526 Yorkway, 221.42' SE of Leeway, on property of Petitioner
Remarks: [Signature]
Posted by: [Signature] Date of return: 7/1/88
Number of Signs: 1

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD., June 16, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on June 16, 1988

THE JEFFERSONIAN,

S. Zebe Olson
Publisher

33.75

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property described herein in Room 116 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Petition for Special Hearing
Case number 88-530-SPH
SW/S Yorkway, 221.42' SE of Leeway (2526 Yorkway)
12th Election District
7th Councilmanic District
Petitioners: Roger S. Burnett, et ux
July 15, 1988 at 9:00 a.m.
The hearing will be held at 9:00 a.m. in Room 116 of the County Office Building. The zoning Commission will, however, entertain any request for a stay of the hearing at said hearing during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
6212 June 16

to Ms. Evelyn Comer, all apartments were continuously and without interruption occupied except for brief periods during a change in tenants.

Ms. Comer testified that she and her husband purchased the subject property in March, 1972 from Mr. O'Bara. She indicated that at the time of their purchase, the building contained five apartments as described by Mr. O'Bara. Testimony further indicated that some time after the purchase of the property by the Comers in 1972 and prior to their selling the property on December 30, 1976, a sixth apartment was added to the basement area. Ms. Comer testified that the five apartments in question were continuously occupied without interruption during her ownership except for brief periods during a change in tenants. Ms. Comer further testified that she frequented the subject property on approximately a weekly basis until she sold it to Mr. J. Richard O'Donnell.

Mr. O'Donnell testified that he owned the subject property from December of 1976 through October 1980 at which time he sold the property to Mr. & Mrs. Burnett, the Petitioners. He further testified that at the time he purchased the building until the time he sold the property, there were six apartments in the building. He indicated that he managed the apartments himself and that the apartments were continuously and without interruption occupied except for brief periods during a change in tenants.

Mr. Burnett testified that he purchased the subject property in October 1980 from Mr. O'Donnell. He indicated that at the time of his purchase, there were six apartments. He further testified that upon receiving notification from the Zoning Enforcement Office of the need to establish the nonconforming use of the subject property, he made the determination to discontinue use of the sixth apartment, known as apartment F, since the sixth apartment did not exist prior to 1955. He testified he

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-530-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a nonconforming use for a five (5) unit apartment building, consisting of one (1) basement apartment with two (2) suites on the first floor and two (2) suites on the second floor, all built prior to 1955, at 2526 Yorkway, Baltimore County, Maryland 21222. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Roger S. Burnett (Type or Print Name)
Signature: [Signature]
Address: 2004 Cairns Mill Road, Fallston, Maryland 21047
City and State: Fallston, Maryland 21047
Address: 809 Eastern Boulevard, Essex, Maryland 21221
City and State: Essex, Maryland 21221
Attorney for Petitioner: John O. Hennegan (Type or Print Name)
Address: 809 Eastern Boulevard, Essex, Maryland 21221
City and State: Essex, Maryland 21221
Attorney's Telephone No.: 686-8274
Legal Owner(s): Roger S. Burnett (Type or Print Name)
Signature: [Signature]
Address: 2004 Cairns Mill Road, Fallston, Maryland 21047
City and State: Fallston, Maryland 21047
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: 2004 Cairns Mill Road, Fallston, Maryland 21047
Contact Attorney: [Signature]
Name: [Signature]
Address: [Signature]
Phone No.: [Signature]

ORDERED By The Zoning Commissioner of Baltimore County, this 20th day of April, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commission, County Office Building in Towson, Baltimore County, Maryland, on June 16, 1988, at 9:00 o'clock.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 50470
DATE: 4-5-88 ACCOUNT: R-01-100-000
AMOUNT: \$ 100.00
RECEIVED FROM: [Signature]
FOR: [Signature]
VALIDATION OR SIGNATURE OF CARRIER

removed the refrigerator and stove from this apartment and that this apartment is no longer occupied. Mr. Burnett testified that since his purchase in 1980 until the present, the five apartments in question, known as Apartments A through E, have been occupied continuously and without interruption.

Testimony indicated that the subject property was zoned "D" Residence Zone which permitted as of right an apartment building under the 1945 zoning regulations. Counsel argued that since all five apartments were in existence prior to the 1955 regulations taking effective, said use should be permitted to continue as a nonconforming use.

The Petitioners seek relief from Section 104.1, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The use of the subject property as four apartments predates the establishment of the first zoning regulations in 1945, and therefore, are clearly nonconforming. In addition, testimony indicated that the fifth apartment, which was added in 1953, was permitted under the 1945 regulations. The uncontroverted testimony indicated that the use of the subject property for five apartments has been continuous and without interruption since approximately 1953 to the present time, with four existing prior to 1945.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of July 1988 that the nonconforming use of the subject property as a five unit apartment building, in accordance with Petitioner's Exhibit 1, be approved, and as such, the petition for

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James H. Thompson
Zoning Enforcement Supervisor
Ann M. Nastarowicz
Deputy Zoning Commissioner
Roger S. Burnett, et ux
Case No. 88-530-SPH
2526 Yorkway

July 15, 1988

Attached please find a copy of the decision rendered in the above-captioned matter. Please note in Restriction No. 1 that your staff will be involved in following up on this case.

Thank you for your attention in this matter.

AMN:bjs

DEED DESCRIPTION FOR PROPERTY SITUATE: 2526 Yorkway, Baltimore County, Maryland 21222

BEGINNING for the same at a point on the southwesterly line of Yorkway as now laid out distant 221 and 42/100ths feet northwesterly measured along said southwesterly line of Yorkway from the northwesterly line of Leeway as now laid out 60 feet wide, all as shown on "Plat No. 4 of Dundalk" and running thence south 37 degrees 31 minutes 27 seconds west 121 and 42/100ths feet to intersect the northwesterly line of a 14 foot alley there situate and as shown on said plat, thence binding on the northwesterly line of said alley north 51 degrees 6 minutes 49 seconds east 58 and 56/100ths feet, thence north 35 degrees 53 minutes 51 seconds east 118 and 99/100ths feet part of which distance is intended to be along the center line of a party wall there situate to intersect the said southwesterly line of Yorkway, thence southeasterly binding on said southwesterly line of Yorkway on a curve to the right with a radius of 4075 feet for a distance of 62 feet to the place of beginning. The improvements thereon being known as No. 2526 Yorkway.

Special Hearing is hereby GRANTED, subject, however, to the following restriction:

1) Within sixty (60) days of the date of this Order, the Petitioner shall make arrangements with the Zoning Enforcement Division of this Office for an inspection of the formerly known sixth apartment to insure that all kitchen facilities have been removed.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

July 15, 1988

John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING
SW/S Yorkway, 221.42' SE of Leeway (2526 Yorkway)
12th Election District; 7th Councilmanic District
Roger S. Burnett, et ux - Petitioners
Case No. 88-530-SPH

Dear Mr. Hennegan:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs
Enclosure
cc: Mr. John O'Bara
7019 5th Avenue, Annapolis, Md. 21403
Ms. Evelyn Comer
123 Montrose Avenue, Baltimore, Md. 21228
Mr. J. Richard O'Donnell
1706 Valleybrook Drive, Kingsville, Md. 21097
People's Counsel
File

PETTY OWNER'S
EXHIBIT


Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 408
Towson, Maryland 21204
494.3554

May 19, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

Enclosed is a copy of the


Therence P. Hantman
County Administrator

MEMBERS

City of Baltimore
111 W. Chesapeake Ave.
Baltimore, Maryland 21201

060

Mr. & Mrs. Roger S. Burnett
2004 Carra Mill Road
Pallott, Maryland 21047

RE: Item No. 370 - Case No. 88-530-SFH
Petitionary: Roger S. Burnett, et ux
Petition for Special Hearing

MEMBERS
Bureau of
Engineering
Department of
Traffic Engineering
State Roads Commission
Bureau of
Parks & Recreation
Health Department
Project Planning
Public Planning Department
Board of Education
Department of Transportation
Industrial
Development

Dear Mr. & Mrs. Burnett:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:tdt

Enclosures

[illegible]

Baltimore County
Fire Department
Towson, Maryland 21204 2586
434-4500

Paul H. Rando
Chief

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

April 26, 1988

Re: Property Owners: Roger S. Burnett, et ux
Location: SM/5 Yorkway, 221.42' SE of Leeway
Item No.: 170 Zoning Agenda: Meeting of 4/19/88

Comments:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____
Exceeds the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(x) 5. The buildings and structures exist on or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED: Carl J. Kelly Noted and Approved: John W. Mill
Planning Group Fire Prevention Bureau
Special Inspection Division

/s/

Carter's EXTRA-SERIES™ Stamp Pad is a professionally designed permanent ink stamp. It features a long and lasting, high quality ink for extra life.